

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Ethics and Elections

BILL: SB 562

INTRODUCER: Senators Rouson and Davis

SUBJECT: Harassment of Election Workers

DATE: February 1, 2024

REVISED: 02/05/24

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Biehl	Roberts	EE	Fav/1 amendment
2.		CJ	
3.		RC	

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

SB 562 makes it a third-degree felony to intimidate, threaten, coerce, or harass, or to attempt to intimidate, threaten, or harass, an election worker with the intent to impede or interfere with the performance of the election worker's official duties or with the intent to retaliate against the election worker for the performance of his or her official duties.

The bill takes effect July 1, 2024.

II. Present Situation:

Threats against and Harassment of Election Workers

Conducting an election requires the assistance of numerous election workers. Election workers may include:

- Election officials, such as supervisors of elections and their regular employees;
- Poll workers, who are short-term employees of supervisors of elections who staff voting sites, assist voters, and work in the elections office; and

- County canvassing board members,¹ who among other duties must publicly canvass vote-by-mail ballots² and provisional ballots^{3, 4}.

In recent elections, there have been reports nationally of increased threats to and harassment of election workers.⁵

Prohibitions against Threats and Harassment

Current law prohibits various forms of threats and harassment, but does not specifically address threats to or harassment of an election worker in the performance of his or her duties. Existing prohibitions are discussed in more detail below.

Voter Intimidation or Suppression

Current law⁶ makes it a third-degree felony⁷ to:

- Directly or indirectly use or threaten to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to refrain from acting as a legally authorized election official or poll watcher.⁸
- Knowingly use false information to induce or attempt to induce an individual to refrain from acting as a legally authorized election official or poll watcher.⁹

Threats against a Public Servant

It is unlawful to harm or threaten to harm any public servant,¹⁰ his or her immediate family, or any other person with whose welfare the public servant is interested, with the intent to:

¹ A county canvassing board is composed of the supervisor of elections, a county court judge, and the chair of the board of county commissioners (s. 102.141(1), F.S.).

² Current law allows any voter to request a vote-by-mail ballot and to return such ballot via mail or by physical return to an authorized location (ss. 101.62(1)(a) and 101.69(2)(a), F.S.).

³ At all elections, a voter claiming to be properly registered in the state and eligible to vote at the precinct in the election but whose eligibility cannot be determined, a person whom an election official asserts is not eligible, and other persons as specified are entitled to vote a provisional ballot. A person casting a provisional ballot has the right to present written evidence supporting his or her eligibility to vote to the supervisor of elections up until 5 p.m. on the second day following the election. Section 101.048(1), F.S.

⁴ Section 102.141(2)(a), F.S.

⁵ National Conference of State Legislatures, *As 2024 Campaigns Begin, States Confront Threats to Election Workers*, available at <https://www.ncsl.org/state-legislatures-news/details/as-2024-campaigns-begin-states-confront-threats-to-election-workers> (last visited February 1, 2024).

⁶ Section 104.0615(5), F.S.

⁷ A third-degree felony is punishable by up to five years' imprisonment and a \$5,000 fine (ss. 775.082, 775.083, or 775.084, F.S.).

⁸ Section 104.0615(2)(d), F.S.

⁹ Section 104.0615(3)(c), F.S. A poll watcher is a person designated by a political party or candidate pursuant to statutory requirements to observe an election in a polling room or early voting area (s. 101.131(1), F.S.).

¹⁰ Section 838.014(7), F.S., defines a "public servant" as: 1) any officer or employee of a governmental entity, including any executive, legislative, or judicial branch officer or employee; 2) any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or 3) a candidate for election or appointment to any of the officer positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

- Influence the performance of any act or omission that the person believes to be, or that the public servant represents as being, within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.
- Cause or induce the public servant to use or exert any influence on another public servant regarding any act or omission that the person believes to be, or that the public servant represents as being, within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.¹¹

A person commits a second-degree felony¹² if he or she unlawfully harms a public servant or any person with whose welfare the public servant is interested and a third-degree felony if he or she threatens to unlawfully harm such a person.¹³

Stalking

It is a first-degree misdemeanor to willfully, maliciously, and repeatedly follow, harass, or cyberstalk another person.¹⁴ The severity of the offense is increased to a third-degree felony if the offender also makes a credible threat to the person.¹⁵

“Harass” means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.¹⁶

“Cyberstalk” means:

- To engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person; or
- To access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person’s permission.¹⁷

III. Effect of Proposed Changes:

SB 526 defines “election worker” to mean a member of a county canvassing board or an individual who is an election official or poll worker in connection with an election conducted in this state.

The bill makes it a third-degree felony to intimidate, threaten, coerce, or harass, or attempt to intimidate, threaten, coerce, or harass, an election worker with the intent to:

- Impede or interfere with the performance of the election worker’s official duties; or
- To retaliate against the election worker for the performance of his or her official duties.

The bill takes effect July 1, 2024.

¹¹ Section 838.021(1), F.S.

¹² A second-degree felony is punishable by a term of imprisonment not exceeding 15 years and a \$10,000 fine (ss. 775.082, 775.083, or 775.084, F.S.).

¹³ Section 838.021(3)(a-b), F.S.

¹⁴ Section 784.048(2), F.S.

¹⁵ Section 784.048(3), F.S.

¹⁶ Section 784.048(1)(a), F.S.

¹⁷ Section 784.048(1)(d), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of state tax shared with counties or municipalities. In addition, bills that affect state or local elections are exempt from the requirements of Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate impact on jail beds by creating a new felony offense for the harassment of election workers, which may result in more jail admissions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 104.47, Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:**Barcode 933688 by Ethics and Elections on February 5, 2024:**

This delete-all amendment:

- Removes language from the bill that prohibits a person from attempting to intimidate, threaten, coerce, or harass an election worker.
- Reduces the penalty from a third-degree felony to a first-degree misdemeanor.

(WITH TITLE AMENDMENT)